

**GOVERNMENT OF PUDUCHERRY  
LABOUR DEPARTMENT**

(G.O. Rt. No. 47/Lab./AIL/T/2016, dated 31st May 2016)

**NOTIFICATION**

Whereas, an award in I.D (T) No. 11/2008, dated 2-5-2016 of the Industrial Tribunal, Puducherry in respect of the industrial dispute between the management of M/s. Ajantha Cycle Parts Industries, Puducherry and All India Centre of Trade Union Council (AICCTU), Puducherry over denial of fixation of monthly wages and other charter of demands has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

**E.VALLAVAN,**  
Commissioner of Labour-cum-Additional  
Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL AT  
PONDICHERRY**

*Present:* Tmt. S. MARY ANSELAM, M.A., M.L.,  
Presiding Officer, Industrial Tribunal.

*Monday, the 2nd day of May, 2016.*

**I.D. (T) No. 11/2008**

The President,  
All India Centre of Trade Union  
Council (AICCTU),  
No. 471, Bharathi Street,  
Puducherry.

.. Petitioner

*Versus*

The Managing Director,  
M/s. Ajantha Cycle Parts Industries,  
C-4, Thattanchavady,  
Puducherry.

.. Respondent

This industrial dispute coming on 28-4-2016 for final hearing before me in the presence of Thiru N. Ganapathy, Counsel for the petitioner, Thiru L. Sathish, Counsel for the respondent, upon hearing both sides, perusing the case records and having stood over till this day for consideration, this Court delivered the following:-

**AWARD**

This industrial dispute has been referred as per the G.O. Rt. No. 155/AIL/Lab./J/2008, dated 3-11-2008 for adjudicating the following:-

1. Whether the denial of fixation of monthly wages by the management of M/s. Ajantha Cycle Parts Industry, Puducherry to Thiruvalargal (1) G. Devaraj, (2) M. Janarthanan, (3) Murugan, (4) Parthasarathy, (5) Murthy, (6) Arul, (7) Kulandaiperumal, (8) Senthil Kumar, (9) Jayalakshmi and (10) Rukmani and other charter of demands to the workmen of the said establishment represented by AICCTU is justified or not? If not to give appropriate directions?

2. To what benefits, the said workmen are entitled?

3. To what relief, the said workmen are entitled?

4. To compute the relief, if any, awarded in terms of money if it can be so computed?

2. The facts giving rise to this industrial dispute as stood exposted from the claim petition runs thus:-

According to the petitioner time scale and minimum wages not given but, piece rate wages given to workers. So, workers started a union in the year 2009 and gave their requisition to the management. No reply from the management. So, on 9-1-2007 workers gave a work stopping notice. So, before the Labour Officer Conciliation was done. It was dragged on. So, petition was given for high level conciliation. So, conciliation was done before Labour Department Joint Commissioner. It ended in failure. So, payment of salary and bonus from 2005 till 2008 was stopped surrender of E.L. and encashment was also stopped from March 2007, G.O. Ms. No. 3/2007/Lab./9 was passed fixing minimum wages per day as ₹ 122.50 it was also not paid. Since proper measures were not followed in the factory, accident occurred and fingers of workers Devaraj, Manikandan, Ravindran and Jeya Lakshmi were cut. As per the complaint given by the Union criminal action was taken. With regard to the non-payment of minimum wages from 8-3-2007, Chief Inspector of Factories took action against the management. While enquiry in G.O. Rt. No. 155/AIL/Lab/J/2008, dated 3-11-2008 is pending, management terminated Devaraj, Janarthanan and Murthy. So, present petition (1) with a prayer for

minimum wages as ₹ 122.50 per day (2) From January 2006 till reinstatement, backwages (3) From 2005 January onwards leave with wages benefit and from 2005 till reinstatement, payment of bonus balance.

3. The facts set out in the reply filed by the respondent management are stated as follows:-

It is stated on the side of the management that AICCTU is not registered trade union and the petitioner has no *locus-standi* to represent any of the employee. The so-called President is not an employee or employer in any industry. Respondent adopts payment of wages for piece work from the beginning. Hence, the demand for fixation of time rate of wages does not arise. Employees were advised to receive the salary, bonus and other emoluments through letters. They were returned as refused. Employees are provided with new clothes to wear in the factory. So, there is no reason to claim uniform. When the management was willing to give shoes to them, employees refused to accept it, since it is uncomfortable, management is paying T.A. Respondent is paying wages as fixed by Minimum Wages Act, as per the order of Government of Puducherry.

4. On the side of the petitioner, PW1 was examined and Ex.A1 to A21 were marked. On the side of the respondent no witness was examined and no document was marked.

5. *The point for consideration is:*

Whether the industrial dispute can be allowed or not?

6. *On this point:*

Both sides heard. They have filed the written arguments also. It is stated on the side of the petitioner that as per section 2(h) of the Trade Union Act, trade union includes any federation of two or more trade unions. Hence, the contention of the respondent that the petitioners cannot represent the employees of the respondent is not forming any valid ground. It is further stated that all along only the AICCTU is making representations and demands on behalf of the employees of the respondent and at that time the respondent has not objected the status of the trade union. It is further submitted that virtually the respondent had admitted and recognized the status of the petitioner's trade union and hence, the respondent is stopped from disputing the status of the trade union now in this proceedings.

7. It is stated on the side of the respondent that as per section 36 sub-section (1) (a) and (b) of the Industrial Dispute Act representation of a worker only by the executive or office bearer of registered trade

union of which he is a member or by the executive or office bearer of a federation to which the trade union in which the worker is a member is affiliated. So, the petitioner is expected to prove that it is a registered federation of trade union, the signatory or the representative is an office bearer or member of executive of petitioner federation. The workers involved in this dispute are members of Cycle Parts Jananayaga Thozhilalar Sangam and this Sangam is a registered trade union and the said trade union is affiliated to petitioner federation. On the side of the petitioner, the registration certificate of the trade union is marked as Ex.A18. So, the trade union is a registered one is proved in this case. Further, as per section 2(h) of the Trade Union Act, trade union includes any federation two or more trade unions. So, the petitioner has got *locus-standi* to represent the petitioners. (1) The Delhi High Court Decision in Maheshwari Gas Services Vs. Bhure Lal is not fitting with facts of the present case. (2) It is stated on the side of the respondent that the claim petition filed by the petitioner is unclear, vague, imprecise. The petitioner is making claims for benefits like HRA, DA, Uniforms, Transport Allowances, etc., But, there is absolutely no foundation in the pleadings any of these demands. The petitioner has not proved as to how they are entitled to such demands. According to the respondent they are providing uniform to the workers and they are also providing shoes to them. Since the claim petition with regard to the above facts is unclear the petitioner is not entitled for the abovesaid reliefs. Likewise, it is not stated on the side of the petitioner that what was the actual wage received by them per day. This is an important aspect to be stated by the petitioner. In this connection, no record was also filed on the side of the petitioner. According to the respondent as per the G.O. published in the year 2007 they are paying the minimum wages. It is further stated on the side of the respondent that the piece rate wages paid to the employee is more than the minimum wage fixed by the Government. So, it is highly necessary on the part of the petitioner to prove that what was the wage received by him in the year 2008, since it is not stated in the claim statement as well as in the evidence of PW1 and it is not proved through documentary evidence the argument advanced on the side of the respondent that the claim statement made by the petitioner is vague and unclear is a correct one. Without this necessary detail this Court is not in a position to pass an order in favour of the petitioner.

8. It is stated on the side of the respondent that the burden of proof lies heavily on the petitioner. The initial burden of proof of this case is upon the petitioner, there is no doubt about it. According to the petitioner, the

minimum wage is not given to them and only piece rate wages is given to them. It is admitted by the respondent that they are giving piece rate wages, but, according to the respondent the piece rate wages given to the workers is above the minimum wages fixed by the Government. If it is so, it is for the respondent to prove it through documentary evidence, but on the side of the respondent no witnesses was examined and no document were marked. So, the wages given to the workers is more than the minimum wages fixed by the Government is not proved in this case. According to the petitioners minimum wage per day fixed by the Government is ₹ 122.50 per day. So, they are claiming from January 2006 till reinstatement backwages. According to the petitioner, the Government of Puducherry had issued a notification fixing the minimum wages for the different categories of the employees as per the G.O. Ms. No. 1/2007/Lab/AIL/G, dated 7-3-2007. The Government is revising the minimum wages periodically by Gazette Notifications and the latest is G.O. Ms. No.19/Lab/AIL/G/2015, dated 14-10-2015. According to the petitioner, the respondent is bound and liable to pay the minimum wages to its employees as per the periodical revision of the minimum wages by the Government. The difficulty arising to the workers in the piece rate wages is that the respondent had not provided required raw materials and the employees used to wait idle for 8 hours even there was no production for want of raw materials. So, the petitioners are asking for minimum wages on the basis of ₹ 122.50 per day. It is the paramount duty of the respondent to submit clear evidence before this court to show that they are paying the minimum wages to the employees. The respondent cannot make use of the loopholes and weaknesses of the employees.

9. As per section 3 (2) of the Minimum Wages Act, the appropriate Government may fix (a) a minimum rate of wages for time work (b) a minimum rate of wages for piece work and so on. As per section 17 of the Minimum Wages Act wherein employees employed on a piece work for which minimum time rate and not a minimum piece rate has been fixed under this Act, the employer shall pay to such employee wages at not less than the minimum time rate. So, it is clear that the employee is entitled for minimum wages fixed by the Government. As per Ex.A19 minimum wages from February 2009 has been implemented. The dispute in connection with this case arises in the year 2008. In the year 2007 itself, Government of Puducherry has fixed the minimum wage as ₹ 122.50 per day. So, the petitioners are entitled for minimum wages on the basis of ₹ 122.50 per day from January 2006 till reinstatement they are also entitled for leave with wages benefit from 2005 January onwards.

It is stated on the side of the respondent that the bonus given to the employees were refused. So, the employees are entitled for bonus balance from January 2005 to reinstatement. Taking into consideration of all the abovesaid aspects, the denial of fixation of monthly wages by the management, on the basis of minimum wages fixed by the Government of Puducherry in its periodical G.O. is not justified. But, in the present case, the case of the petitioner is not established through oral and documentary evidence with regard to payment of minimum wages. What was the wage received by them is not at all stated by the petitioner. So, whether it is the correct minimum wage or it is below the minimum wage is not proved by the petitioner.

10. So, the prayer of minimum wages as ₹ 122.50 per day from January 2006 till reinstatement and backwages is denied. Likewise, the prayer from 2005 January onwards leave with wages benefit and bonus balance benefit is also denied because the management is ready to pay it. On the side of the petitioner it is stated that the minimum wages is revised recently by Gazette notification in G.O. Ms. No. 19/Lab/AIL/G/2015, dated 14-10-2015. The copy of the Gazette notification is also filed. It will come into force from 14-10-2015 onwards. As per this notification minimum wages for day is fixed as ₹ 352 per day. The present dispute is with regard to 2008. The G.O. applicable to them is of the year 2007. It is stated on the side of the petitioner that the management terminated Devaraj, Janarthanan and Murthy. The present dispute is not with regard to the termination as illegal. So, G.O. passed in the year 2015 is not applicable to them. Since what was the daily wage given to the workers are not proved, it is not possible to come to a conclusion that the wage paid is minimum wage or below it. So, fixation of monthly wage is denied by the management is not proved. Further, Ex.A19 proved that minimum wage has been implemented from 2009.

11. "Sec. 102 of Evidence Act says as follows:- The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. When the evidence is all in, and a party introducing it has not, by the preponderance of evidence required by law, established his position or claim, the decision will be against him. The burden must be strictly discharged; in other words the plaintiff, in order to succeed, must put the Court in possession of legal and satisfactory evidence, and it will not suffice to point to matters of suspicion or even to plausible conjecture."

Hence, the Court decided on a considered view that the case of the petitioner was not established by

adducing the documentary evidence and the claim of the petitioner was not established by the petitioner and the petitioners are not entitled for any relief as claimed in the petition. Accordingly the points are answered.

12. In the result, it is ordered that the petitioners are not entitled for any relief as it was not established and the reference is closed accordingly.

Typed to my dictation, corrected and pronounced by me in the open Court on this the 2nd day of May, 2016.

**S. MARY ANSELAM,**  
Presiding Officer,  
Industrial Tribunal,  
Pondicherry.

*List of petitioner's witness:*

PW.1 — 11-8-2011 — S. Balasubramanian

*List of respondent's witnesses:*

Nil

*List of petitioner's exhibits:*

- Ex.A1 — Copy of the industrial dispute raised by the petitioner union before the Labour Officer (Conciliation), dated 9-8-2006. (Photocopy)
- Ex.A2 — Copy of the additional claim filed by the petitioner before the Labour Officer (Conciliation), dated 8-9-2006. (Photocopy)
- Ex.A3 — Copy of the Strike Notice issued by the petitioner union to the respondent, dated 9-1-2007. (Photocopy)
- Ex.A4 — Copy of the Rejoinder filed by the petitioner union Photocopy before the Labour Officer (Conciliation), dated 22-1-2007. (Photocopy)
- Ex.A5 — Copy of the Gazette Copy of the Government of Puducherry for minimum wages, dated 8-3-2007 (Photocopy)
- Ex.A6 — Copy of the Counter Statement filed by the respondent before the Labour Officer (Conciliation), dated 30-3-2007. (Photocopy)
- Ex.A7 — Copy of the Complaint to the Chief Inspector of Factories by the petitioner, dated 11-4-2007 (Photocopy)
- Ex.A8 — Copy of the representation for higher level Conciliation, dated 24-7-2007. (Photocopy)

- Ex.A9 — Copy of the Strike issued by the petitioner union to the respondent, dated 5-11-2007. (Photocopy)
- Ex.A10 — Copy of the Complaint to Chief Inspector of Factories regarding factory accident, dated 4-1-2008. (Photocopy)
- Ex.A11 — Copy of the Complaint to Chief Inspector of Factories regarding factory accident, dated 22-2-2008. (Photocopy)
- Ex.A12 — Copy of the Prohibition Order issued to the respondent by the Chief Inspector of Factories, dated 6-5-2008. (Photocopy)
- Ex.A13 — Copy of the conciliation failure report, dated 22-9-2008. (Photocopy)
- Ex.A14 — Copy of the reference by the Government of Puducherry to the tribunal. dated 3-11-2008. (Photocopy)
- Ex.A15 — Copy of the Complaint to the DLC regarding the non-implementation of the minimum wages G.O. dated 8-12-2008. (Photocopy)
- Ex.A16 — Copy of the Intimation for rejoining duty by the petitioner union to the respondent, dated 8-12-2008. (Photocopy)
- Ex.A17 — Copy of the industrial dispute raised by the petitioner union before the Labour Officer (Conciliation), dated 24-12-2008. (Photocopy)
- Ex.A18 — Copy of the registration certificate of the Trade Union, dated 9-4-2009. (Photocopy)
- Ex.A19 — Copy of the non-payment minimum wages orders-order by Chief Inspector of Factories, dated 29-6-2009. (Photocopy)
- Ex.A20 — Copy of the non-payment minimum wages orders-order by Chief Inspector of Factories, dated 3-7-2009. (Photocopy)
- Ex.A21 — Copy of the Bonus demand raised by the union for 2007-2008, dated 13-10-2008. (Photocopy)

*List of respondent's Exhibits:*

Nil

**S. MARY ANSELAM,**  
Presiding Officer,  
Industrial Tribunal,  
Pondicherry.

GOVERNMENT OF PUDUCHERRY  
**LABOUR DEPARTMENT**

(*G.O. Rt. No. 48/Lab./AIL/T/2016, dated 31st May 2016*)

NOTIFICATION

Whereas, an Award in Lok Adalat Case No.26289/15 in I.D. (L). No. 22/2013, dated 12-12-2015 of the Lok Adalat, Puducherry in respect of the industrial dispute between the management of M/s. Suzlon Energy Limited, Unit-IV, Puducherry and Suzlon Thozilalargal Sangam, affiliated to Centre of Indian Trade Union-(CITU), Puducherry and Suzlon National Employees and Workers Union (INTUC), Puducherry has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

**E. VALLAVAN,**  
Commissioner of Labour-cum-  
Additional Secretary to Government (Labour).

**BEFORE THE LOK ADALAT AT PUDUCHERRY**

Organised by Thiru G. Sendil Kumar, Member-Secretary, Union territory of Puducherry, Legal Services Authority (State Authority), Puducherry, under section 19 of the Legal Services Authorities Act (Act 39 of 1987).

QUORUM

N. Sivakumar, Presiding Officer, Industrial Tribunal-cum-Labour Court, Pondicherry.	.. Judge
Thiru C. Munusamy, Advocate, Pondicherry.	.. Member
Thiru A. Abudul Rachide, Advocate, Pondicherry.	.. Member

LOK ADALAT CASE No. 26289/15  
in  
I.D. (L) No. 22/2013

(On the file of the Industrial Tribunal-cum-  
Labour Court, Puducherry)

Saturday, the 12th day of December 2015

(1) The President,  
Suzlon Thozhilalargal Sangam,  
Represented by its President  
L. Sundaramoorthy,  
Affiliated to Centre of  
Indian Trade Union -(CITU)  
Pondicherry.

(2) The President,  
Suzlon National Employees and  
Workers Union (INTUC),  
Pondicherry.

.. Petitioner

*Versus*

The The Managing Director,  
M/s. Suzlon Energy Limited, Unit-IV,  
Pondicherry.

.. Respondent

This industrial dispute coming on this day, before us in the presence of the petitioner and their Counsel Thiru R.T. Shankar and the respondent management and his counsel Thiru L. Sathish, both the petitioner and the respondent management having agreed to settle the matter and thereby, the case being settled and an Award is passed accordingly:

*Taken cognizance under section 20 (2) of the Legal  
Services Authorities Act (Act 39/87)*

1. I.D.(L) No.22/2013 in the Court of Labour Judge, Puducherry was filed by the petitioner unions to direct the respondent management to provide the employment to the employees of the petitioner No.1 union with full backwages, continuity of service and all other attendance benefits and for costs.

2. On 12-12-2015, the petitioner unions and the respondent management entered into 18 (1) settlement, whereby, the individual workers have agreed to receive ₹ 2,50,000 (Rupees two lakhs and fifty thousand only) each as full and final settlement and agreed to withdraw this I.D.(L) No. 22/2013 in terms of the settlement and hence, the matter is settled.

3. We are satisfied that the settlement is arrived by both out of their free will and volition.

4. This case is referred to the Lok Adalat organised by the State Legal Services Authority under section 19 of the Legal Services Authorities Act (Act 39/87) and after full and frank discussion of all issues, an Award is passed as follows:

#### AWARD

1. It is ordered and decreed:

(i) That the Award is passed in terms of the settlement under section 18(1) of Industrial Disputes Act made in between the petitioner unions and the respondent management.

(ii) That the industrial dispute (L) No. 22/2013 be and the same is hereby closed.

(iii) That the settlement deed, dated 12-12-2015 entered in between the petitioner unions and the respondent management under section 18(1) of the Industrial Disputes Act shall form part of the Award.

2. That this Award of the Lok Adalat shall be deemed to be a Decree of the Civil Court as per section 21 of the Legal Services Authorities Act, 1987.

Dated at Puducherry, on this the 12th day of December, 2015.

**N. SIVAKUMAR**

Judge

Presiding Officer,

Industrial Tribunal-cum-

Labour Court, Pondicherry.

**C. MUNUSAMY**

Advocate, Member

**A. ABUDUL RACHIDE**

Advocate, Member

GOVERNMENT OF PUDUCHERRY

**LABOUR DEPARTMENT**

(G.O. Rt. No. 46/AIL/Lab./T/2016, dated 30th May 2016)

#### NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s Swadeshi-Bharathi Textiles Mills Limited, Puducherry and National Textile Corporation Limited (A Government of India Undertaking), Coimbatore and

the union workmen Swadeshi-Bharathi Mills Thozhilalar Urimai Padukappu Sangam over illegal deductions made in the terminal benefits of 285 employees listed in Annexure-I against the bonus advance amount paid from the year 1996-1997 to 2003-2004 which is in violation of the settlement, dated 20-4-2005;

And whereas, in the opinion of the Government, it is necessary to refer the said dispute for adjudication;

Now, therefore, by virtue of the authority delegated vide G.O. Ms.No. 20/91/Lab/L., dated 23-5-1991 of the Labour Department, Puducherry to exercise the powers conferred by Clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), it is hereby directed by the Secretary to Government (Labour) that the said dispute be referred to the Labour Court, Puducherry for adjudication. The Industrial Tribunal, Puducherry shall submit the award within 3 months from the date of issue of reference as stipulated under sub-section 2-A of section 10 of the Industrial Disputes Act, 1947 and in accordance with Rule 10-B of the Industrial Disputes (Central) Rules, 1957. The party raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses to the Industrial Tribunal, Puducherry within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute.

#### ANNEXURE

(a) Whether the dispute raised by the union workmen Swadeshi - Bharathi Mills Thozhilalar Urimai Padukappu Sangam against the management of M/s. Swadeshi-Bharathi Textiles Mills Limited, Puducherry and National Textile Corporation Limited (A Government of India Undertaking), Coimbatore over the illegal deductions made in the terminal benefits of 285 employees listed in Annexure-I against the bonus advance amount paid from the year 1996-1997 to 2003-2004 is justified or not? If justified, what relief they are entitled to?

(b) To compute the relief, if any, awarded in terms of money, if it can be so computed?

(By order)

**E. VALLAVAN,**

Commissioner of Labour-cum-

Additional Secretary to Government (Labour).